FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.2970 OF 2007

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.S.N.Chandrachood for the petitioners.

Mr.Ditendra Mishra for respondent nos.1 to 5.

Coram : Anoop V.Mohta,J

Date : 8th August, 2007.

PC

1. Both the Courts after considering the material placed on record, pending the suit, rejected the application for injunction as filed by the plaintiff/petitioner herein by holding that there is no prima facie case and no balance of convenience lies in favour of the plaintiff apart from any irreparable loss. Admittedly, the petitioner had filed Writ petition No.6641/2007 prior to filing of the present suit. By order dated 16.5.2005 and by subsequent order the defendants/respondents were

ordered to restrain from disturbing the physical possession of the petitioner in respect of one room and the remaining property. Not even that by order dated 3.2.2006 while disposing off the Writ petition the Court has passed the order in following terms :-

> At the request of Shri Chandrachood, ad-interim order to continue for a period of eight weeks from today to enable the petitioners to approach the Civil Court. Needless to state that after eight weeks, if no such proceedings are initiated, the order would automatically stand vacated without reference to this Court. If the proceedings are initiated, it would be for the Civil Court to pass appropriate orders, after hearing both sides and on its own merits.

2. In view of this, I am of the view that pending the final decision of the suit the petitioner’s case of injunction needs to be considered in his favour. The above fact and orders are sufficient to consider at this

stage that the plaintiff has made out a prima facie case, balance of convenience also lies in his favour and therefore, if not injuncted, there will be irreparable loss caused to the plaintiff and not to the defendants.

3. Admittedly, there are some portion of the property which are in possession of the defendants. Therefore, without going into further controversy so far as property involved in the suit, both the parties are directed to maintain status-quo pending the decision of the suit. Writ petition is allowed accordingly. No costs.

(Anoop V.Mohta,J)